

REMARKS

I. Status of the Application

By the present amendment, Applicant amends claim 2. Claims 1-11 are all the claims pending in the Application. Claims 1-11 have been rejected.

The present Amendment addresses each point of objection and rejection raised by the Examiner. Favorable reconsideration is respectfully requested.

II. Claim Rejections

Claims 1 and 10 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Feistel (U.S. Patent No. 6,462,230).

Claims 2-5, 8, and 9 are listed as rejected under 35 U.S.C. § 102(a) as allegedly unpatentable over Baba ("Sixth International Conference on Miniaturized Chemical and Biochemical Analysis Systems" (Micro Total Analysis Systems, 2002) 11-3-2002, Vol. 2, pp. 763-765) in view of Pare (U.S. Patent 5,732,476). Applicants note that while the Office Action lists these claims as rejected over Sano and Pare, the Examiner has indicated that in this instance "Sano" is a reference to the above-mentioned Baba article which is co-authored by Sano. Applicants also understand that the reference to 35 U.S.C. § 102(a) is a typographical error and that the Examiner intended to reject these claims over these reference under 35 U.S.C. § 103(a).

Claims 6, 7, 10, and 11 are rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Sano in view of Pare and Apffel (U.S. Patent 5,705,813). Claims 2-8, 10, and 11 are listed as rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Sano in view of Pare.

However, in this rejection, the Examiner also makes reference to the teachings of Apffel. Therefore, Applicants understand that the Examiner intended to reject claims 1-5 and 8 over Sano and Pare and claims 6, 7, 10, and 11 over Sano, Pare, and Apffel.

Applicants respectfully traverse these rejections for *at least* the reasons set forth below.

Regarding the rejection of claims 1 and 10 over Feistel, Applicants respectfully submit that Feistel fails to disclose or suggest a sample drying area, as claimed. Regarding this limitation, the Examiner refers to fluid receiving compartment 40 of Figure 1 of Feistel. However, this element 40 is not a sample drying area. In fact, it is clearly described that this “empty compartment 40 remains empty until fluid pressure forced the fluid 36 from the channel 25 into the empty compartment 40 through passage 42. The waste fluid 41 remains in the waste compartment 40 for later disposal of the device 10 in an appropriate manner.” (Col. 4, lns. 47-51). There is no disclosure or suggestion in Feistel that element 40 or any other element is a sample drying area, as recited in claim 1.

Therefore, in view of the above, Applicants respectfully request that the rejection of claims 1 and 10 over Feistel be reconsidered and withdrawn.

Regarding claims 2-5 8 and 9, as rejected over Baba and Pare, and claims 2-8, 10, and 11 rejected over Baba, Pare, and Apffel, Applicants first submit that no reasonable combination of the references teaches or suggests “a sample drying area, disposed at an end of said side channels and communicating with said side channels, wherein said sample drying area has a fine channel narrower than said side channels,” as recited in claim 2. Regarding this limitation, the Examiner

refers to the “stripe” portion of Baba as teaching the claimed sample drying area, and the “space” portion as teaching the claimed channel. However, the “stripe” portion of Baba is not located at an end of the “space” portion. Further, neither Pare nor Apffel, nor any reasonable combination of the cited references teaches or suggests this limitation.

Second, as previously presented at page 7 of the 1.111 Amendment of September 14, 2006, Applicants submit that due to the use of the Baba apparatus for DNA sieving, one of skill in the art at the time of the present invention would not have been motivated to provide the “stripe” portion at an end of the “space” portion.

Third, as previously presented at page 7 of the 1.111 Amendment of September 14, 2006, one of skill in the art at the time of the present invention would not have been motivated to combine the Baba article with the apparatus of Pare, as suggested by the Examiner, because Baba is directed to a method and apparatus for DNA sieving and is unrelated to the Pare method and apparatus for microwave-assisted separations.

Therefore, Applicants respectfully request that the rejections of claims 2-5 8 and 9 over Baba and Pare, and of claims 2-8, 10, and 11 over Baba, Pare, and Apffel be reconsidered and withdrawn.

III. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is

AMENDMENT UNDER 37 C.F.R. § 1.116
U.S. Application No. 10/536,767

Attorney Docket No.: Q88071

kindly requested to contact the undersigned attorney at the telephone number listed below. The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

Laura Moskowitz by Andrew J. Taska, Reg. # 54,666

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Laura Moskowitz
Registration No. 55,470

Date: January 30, 2007